

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JACK GREENE,)	No. C 05-01267 JSW (PR)
)	
Plaintiff,)	ORDER DENYING LEAVE TO
)	PROCEED <i>IN FORMA PAUPERIS</i>
vs.)	WITHOUT PREJUDICE, AND
)	DIRECTING PLAINTIFF TO FILE
SAN FRANCISCO SHERIFF DEPT., ET)	A NOTICE OF INTENT TO
AL.,)	PROSECUTE
)	
Defendants.)	
)	
)	(Docket nos. 2, 4)

On March 29, 2005, Plaintiff, a California prisoner, filed a *pro se* civil rights action under 42 U.S.C. § 1983. At the time, Plaintiff was incarcerated at the San Francisco County Jail in San Bruno. He had not yet been sentenced, but it is not clear from the complaint whether he was a pretrial detainee or parole violator, or whether he had been convicted and was awaiting sentencing. On April 11, 2005, Plaintiff filed an updated application to proceed *in forma pauperis*. He has not communicated with the Court since.

Plaintiff has violated no Court order through his lack of communication. However, because he was an unsentenced prisoner when he filed this action, his stay at the County Jail might have been limited in duration. Pursuant to Northern District Local Rule 3-11 a party proceeding *pro se* whose address changes while an action is pending must promptly file a notice of change of address specifying the new address. See L.R. 3-11(a). Therefore, if Plaintiff no longer is incarcerated at the County Jail but has not so

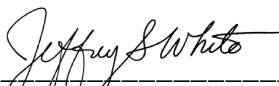
1 notified the Court the action must be dismissed without prejudice. Accordingly, it is in
2 the interests of justice and judicial efficiency for the Court to establish whether Plaintiff
3 still is incarcerated at the County Jail and whether he intends to proceed with the
4 prosecution of this action. Therefore, Plaintiff shall file a notice with the Court
5 indicating whether he wishes to continue to pursue the claims set forth in his
6 complaint **within twenty (20) days** from the date this order is filed. Failure to do so
7 will result in the dismissal of this action without prejudice for failure to prosecute
8 under Rule 41(b) of the Federal Rules of Civil Procedure. *See Malone v. United States*
9 *Postal Serv.*, 833 F.2d 128, 133 (9th Cir. 1987) (a court should afford the litigant prior
10 notice before dismissing for failure to prosecute).

11 Plaintiff's request to proceed *in forma pauperis* is DENIED without prejudice.
12 If Plaintiff files a notice of intent to prosecute, the Court will review the request to
13 proceed *in forma pauperis* anew.

14 This order terminates docket numbers 2 and 4.

15 IT IS SO ORDERED.

16 DATED: December 23, 2005

17 
JEFFREY S. WHITE
United States District Judge